



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,341	04/06/2000	Kevin A. Mansmann, M.D.	KM-MI	8036
29369	7590	03/09/2006	EXAMINER	
PATRICK D. KELLY			ISABELLA, DAVID J	
11939 MANCHESTER #403				
ST. LOUIS, MO 63131			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT PAPER

20060301

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached paper.



DAVID J ISABELLA
Primary Examiner
Art Unit: 3738

Response to Amendment

The reply filed on 11/1/2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Newly submitted claims 14-23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 14-18 are now directed to an implant device that is distinct from a "membrane segment:". The term membrane inherently includes limitation of a structure that is a thin sheet or layer of tissue. The newly presented claims do not possess the scope of the original claims. The implant device is defined to be synthetic polymeric hydrogel whereas the membrane segment does not include the limitation of the new claims. With respect to claims 19-23, these claims are directed to a method for repairing soft tissue of a joint and the original claims 1-13 were directed to a membrane segment as a product. Accordingly, applicant cancelled the originally filed claims and the newly added claims would be properly withdrawn from further consideration as being drawn to an invention distinct from the invention as originally presented.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-23 would be withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this

notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

preamble Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID J ISABELLA
Primary Examiner
Art Unit 3738